

323 CMR 3.00: THE USE OF RECREATION VEHICLES AND SNOW VEHICLES

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3.01: Purpose and Scope

The purpose and scope of 323 CMR 3.00 is to protect the public welfare and safety by establishing rules of conduct governing the operation of recreation and snow vehicles, by promoting voluntary compliance with the rules, and when necessary by deterring, through fines and penalties, noncompliance with the rules. The Division of Law Enforcement intends to enhance, through the rules, its ability to improve the safe and appropriate use of recreation and snow vehicles.

3.02: Definitions

Dealer means any person, firm, corporation or entity engaged in the business of buying, selling or exchanging recreation vehicles, snow vehicles, or both at an established or permanent place of business in the Commonwealth, with each such place maintaining a sign conspicuously displayed showing the name of the dealership and indicating that recreation vehicles or snow vehicles may be purchased at such place, so that it may be located and identified as a recreation vehicle or snow vehicle dealer by the public.

Directly supervised, for the purposes of M.G.L. c. 90B, § 26 and 323 CMR 3.03(1), means in the case of a supervised person between the ages of 12 and 14 that the supervising adult shall be at all times sufficiently close to the supervised person so as to supervise operation of the vehicle by communicating visually or orally with such person, taking into account the noise of both vehicles and the fact that operators are required to wear protective headgear.

Director means the Director of the Division of Law Enforcement or his designee.

Division means the Division of Law Enforcement, 100 Cambridge Street, Room 1901, Boston, Massachusetts 02202.

Express or implied consent of said manufacturer or dealer, for the purpose of M.G.L. c. 90B, § 22, means that the recreation vehicle or snow vehicle is operated solely for the purpose of testing or demonstration directly related to the sale of such particular vehicle or a substantially similar vehicle; that a representative of the manufacturer or dealer other than the prospective purchaser(s) is present throughout such testing or demonstration, or that such consent is stated in writing and is carried on the person and shall include without limitation the name of the manufacturer or dealer, the name of the recipient of the consent, the registration numbers of the vehicle and the date of the consent provided that no such consent may be granted for a period of greater than 24 hours.

Nighttime means that period of time from sunset to sunrise as determined by the chart set forth at 323 CMR 2.02 under the definition of nighttime in the division's regulations affecting motorboats and boating.

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Operate.

- (a) for purposes of M.G.L. c. 90B, § 21 means to ride in or on and control the operation of, or to maintain, suffer or permit the operation of, or to push a snow vehicle or a recreation vehicle;
- (b) for purposes of M.G.L. c. 90B, §§ 20 through 35 means:
  - 1. In the case of a person who has custody of a minor between the ages of ten and 14, to knowingly permit or suffer the operation of a snow vehicle or recreation vehicle by such minor between the ages of ten and 14 without direct supervision by a person 18 years old or older; and
  - 2. when acting as a supervising person under M.G.L. c. 90B, § 26 to knowingly permit a person supervised to violate any law regulating operations.

Unsafe condition for the purposes of 323 CMR 3.06 means:

- (a) the recreation or snow vehicle is not displaying lights at nighttime;
- (b) the recreation or snow vehicle has a fuel leakage;
- (c) the person operating the recreation or snow vehicle or each person aboard such vehicle is not wearing the protective headgear required by M.G.L. c. 90B, § 26;
- (d) the operator is operating underage in violation of 323 CMR 3.03(1).
- (e) the operator is operating under the influence of intoxicating liquor or narcotic drugs, barbituate or marijuana;
- (f) the recreation or snow vehicle is being used in a manner which presents a substantial risk of injury or loss of life;
- (g) the recreation vehicle is not equipped with a spark arrestor;
- (h) the recreation vehicle or snow vehicle is being operated on a way as defined in M.G.L. c. 90, § 1.

3.03: Operation

(1) Age Limit. No person under 14 years of age shall operate a recreation vehicle or a snow vehicle except as provided below:

- (a) a person between the ages of 12 and 14 years old may operate a recreation vehicle or a snow vehicle if directly supervised (as defined in 323 CMR 3.02) by a person 18 years old or older;
- (b) a person between the ages of ten and 12 years may operate a recreation vehicle or a snow vehicle if directly supervised (as defined in 323 CMR 3.02) by a person 18 years old or older and the vehicle is operated on land on which the operator is domiciled; or
- (c) A person under 14 years of age may operate a recreation vehicle or snow vehicle in a sanctioned race, rally or organized event which has been authorized or approved by the appropriate local authority.
- (d) No person under ten years of age shall operate a snow vehicle or recreation vehicle under any circumstances.

(2) Property Owner Permission.

- (a) No person shall operate a recreation vehicle on the property of another without permission of the owner of such property, his agent or lessee; or
- (b) a snow vehicle on public property of another without permission of the owner of such property, his agent or lessee; except in cases of emergency. Permission may be given to an individual, association or other organization.
- (c) No person shall operate a snow vehicle on private property of another without permission of the owner of such property, his agent or lessee, provided in the manner required by the provisions of M.G.L. c. 90B, § 26, paragraph 4.

(3) Distance from Residences. No person shall operate a snow vehicle or recreational vehicle within 150 feet of an occupied residence without the permission of the owner of such residence, his agent or lessee, except in cases of emergency, when directly departing or returning to such residence or when operating on the property of another for which permission has been granted. Permission may be given to an individual, club, association or other organization.

(4) Speed. No person shall operate a snow vehicle or recreation vehicle at a speed greater than is reasonable, prudent, proper and safe under all the existing circumstances.

3.03: continued

(5) Passing. The operator of a snow vehicle or recreation vehicle, when approaching a skier, snowshoer, hiker or other foot traveller or a horseback rider, shall immediately slow his vehicle to minimum safe operating speed, shall give such person the right of way, shall not pass until it can be accomplished with complete safety, and shall not accelerate the vehicle until there is a reasonable distance of not less than 50 feet from such person. Wherever possible, all snow and recreation vehicles shall keep to the right side of trails.

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(6) Snow Cover. No person shall operate a snow vehicle on any public land where such operation is otherwise permitted by the agency in charge thereof, unless such land is covered by snow to a minimum average depth of four inches of packed snow or such other depth as is determined by the person in charge of said land or his designee to be sufficient to preserve the ground cover.

(7) Protection of Property. The operator of a snow vehicle or recreation vehicle when on land of another shall not, without the permission of the owner, remove or deface any sign, vegetation, poster, building or other property, or remove any barrier or alter any fence without restoring or replacing said barrier or fence.

(8) Protection of Wildlife. No person shall operate a snow vehicle or recreation vehicle in a manner so as to harass, chase or otherwise molest deer or any other animals or birds or operate said vehicle within 300 yards of a deer yard. The Director of the Division of Fisheries and Wildlife may designate and post, on public or private land, deer wintering areas or other wildlife protection areas and no snow or recreation vehicle shall be operated within those areas.

(9) Protection of Ocean Beaches and Sand Dunes. No person shall operate a snow vehicle or recreation vehicle on an ocean beach or sand dune in a manner so as to destroy, damage or breakdown any beach, dune or dune grass.

(10) Wetlands. No person shall operate a recreation vehicle on a wetland (i.e. a bog, marsh, or swamp) as defined by M.G.L. c. 131, § 40A so as to destroy or damage wetland plants if such area has been designated and posted as a protected wetland area by the Director of the Division of Fisheries and Wildlife or by the Director of the Division of Wetlands and Waterways. Either of such Directors may designate and post, on public or private land, protected wetland areas.

3.04: Towing

(1) Authorization. If deemed necessary for the protection of public safety by any person authorized to enforce M.G.L. c. 90B, §§ 20 through 35 such person may cause a snow vehicle, recreation vehicle or unregistered motor vehicle on public land to be moved by placing such vehicle in tow or by directing that a towing service move such vehicle:

- (a) when the operator of the snow vehicle or recreation vehicle willfully neglects or refuses to obey the order of a person authorized to enforce M.G.L. c. 90B, §§ 20 through 35;
- (b) when the operator of a snow vehicle or recreation vehicle is placed under arrest;
- (c) whenever a recreation vehicle, snow vehicle or motor vehicle is abandoned; or
- (d) whenever the use of such vehicle has been terminated as unsafe under 323 CMR 3.06.

(2) Liability. In the event a vehicle is towed pursuant to 323 CMR 3.04(1) or otherwise is lawfully towed, any person authorized to enforce M.G.L. c. 90B, §§ 20 through 35 shall not be liable for any act or omission in providing or arranging such towage or other assistance unless such person acts recklessly or with gross negligence.

(3) Disposition. If a vehicle is towed pursuant to 323 CMR 3.00 the owner of such vehicle shall be liable for the cost of such tow and such vehicle shall be held and disposed of pursuant to procedures parallel to those prescribed by M.G.L. c. 135.

(4) Presumption. For purposes of 323 CMR 3.00 a snow vehicle or recreation vehicle shall be presumed to be abandoned if left on property of another without consent and unattended for 72 hours or more. The last owner of record of a recreation or snow vehicle at the time it was abandoned shall be presumed to be the person who abandoned the same or caused or procured its abandonment unless such vehicle has been reported as stolen.

3.05: Registration Numbers and Decal

(1) Registration Decal Placement - Snowmobile. For all snow vehicles, the registration number assigned by the Director shall:

- (a) Be displayed on a decal provided by the Director and

3.05: continued

- (b) Such decal shall be affixed to the left side cowl of the snow vehicle or on the lower left side of the windshield, so as to be clearly visible and
- (c) The vehicle's owner shall also display in the upper left hand corner of such decal, the current validation sticker.

(2) Registration Decal Placement - Recreation Vehicles. For all recreation vehicles, the registration number assigned by the Director shall be displayed on a plate provided by the Director and such plate shall be displayed on the back of such vehicle. In addition to displaying such plate, the owner of such vehicle shall display in the upper left corner of such plate the current registration decal of Division of Law Enforcement.

(3) All snow vehicles or recreation vehicles used specifically in the training of environmental police officers, deputy environmental police officers, or other law enforcement officers, in an area designated by the Director for such purposes, need not meet the registration requirements for such vehicles.

(4) Maintenance. The said current decal, sticker, or plate shall be kept clean and readable and shall not be obscured by the installation of any device or in any manner.

(5) Replacement. If any decal, sticker, or plate as the case may be, supplied by the Director is lost, or mutilated or become illegible, the owner or person responsible for the control of the vehicle for which said decal, sticker or plate, was furnished shall as soon as practical make application for replacement of same and thereupon the Director may issue to such applicant a permit allowing use of a temporary number until a replacement decal bearing the registration number is issued to said applicant, provided that any such temporary number used shall conform to the extent practicable, the regime required by 323 CMR 3.00.

(6) Other Plates. No stickers, numbers, decals, number plates other than such as required by 323 CMR 3.00 shall be displayed on any vehicle, except for those required for operation in another state or locality or issued to designate permission to operate on particular land or lands. Stickers used to determine trail access may be displayed on the windshield of any vehicle.

3.06: Termination of Use

Any officer authorized to enforce M.G.L. c. 90B, §§ 20 through 35 who observes a snow vehicle or recreation vehicle being used in an unsafe condition, as defined in 323 CMR 3.02, and which presents a substantial risk of injury or loss of life by the use of such vehicle, may terminate such use and direct the operator to take whatever immediate and corrective steps are necessary for the safety of the operator, any passengers, and the public, including, but not limited to, directing the operator to cease operation until operation is deemed to be safe.

3.07: Equipment

(1) Lights. No person shall operate a snow vehicle or recreation vehicle without displaying one or more lighted headlights and a lighted taillight during the nighttime or at any time when, due to insufficient light or unfavorable atmospheric conditions caused by snow, fog or otherwise, other persons, vehicles, or other objects are not clearly discernible for a distance of 300 feet.

(2) Brakes. No person shall operate a snow vehicle or recreation vehicle that does not have brakes adequate to control the movement of the vehicle and to stop and hold it under any condition of operation.

(3) Muffler. No person shall use a muffler cut-out, by-pass, straight pipe or similar device on a snow vehicle or recreation vehicle.

(4) Spark Arrestor. No person shall operate a recreation vehicle other than a snowmobile unless it is equipped with a suitable spark arrestor.

3.08: Dealers

- (1) Permits. Every dealer in recreation vehicles and/or snow vehicles shall be permitted by the Director. No dealer in recreation vehicles and/or snow vehicles shall sell or offer for sale such a vehicle unless holding a permit from the Director.
- (2) Forms. A dealer shall apply for a permit on forms provided and filed with the Director and by paying the requisite fee.
- (3) Display. The permit issued by the Director shall be conspicuously displayed by the dealer at its place of business.
- (4) Information. No dealer shall sell a recreation vehicle or snow vehicle without securing from such person the name and current address of the owner of the vehicle on a form provided by the Director.
- (5) Notice. Within 30 days of the sale of a snow vehicle or recreation vehicle by a dealer, such dealer shall provide the Director with the name and address of the purchaser of such vehicle on a form provided by the Director.
- (6) Literature. At the time of sale of any recreation vehicle or snow vehicle by a dealer such dealer shall deliver to the purchaser a copy of any appropriate informational literature or brochure provided by the Division to the dealer for such purpose.
- (7) Suspension or Revocation. Failure to comply with any provision of 323 CMR 3.08 may subject the dealer's permit to suspension or revocation by the Director, any suspension of revocation shall be in accordance with the provisions of M.G.L. c. 30A.

3.09: Local Laws

Nothing in 323 CMR 3.00 shall prohibit a city or town from adopting more stringent bylaws or ordinances, or public agencies from adopting more stringent regulations concerning land under such agency's management. Nothing in 323 CMR 3.00 shall supersede any limitations on use contained in M.G.L. c. 90B.

3.10: Penalties

- (1) For purposes of M.G.L. c. 90B, § 34 any violation of 323 CMR 3.03 shall be deemed a violation of M.G.L. c. 90B, § 26.
- (2) For purposes of M.G.L. c. 90B, § 34 any violation of 323 CMR 3.05 shall be deemed a violation of M.G.L. c. 90B, § 22.
- (3) For purposes of M.G.L. c. 90B, § 34 any violation of 323 CMR 3.07 shall be deemed a violation of M.G.L. c. 90B, § 24.
- (4) For purposes of M.G.L. c. 90B, § 34 any violation of 323 CMR 3.08 shall be deemed a violation of M.G.L. c. 90B, § 22.

REGULATORY AUTHORITY

323 CMR 3.00: M.G.L. c. 90B, §§ 22 through 35.

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